



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
Assistant Secretary for Public and Indian Housing  
Office of Native American Programs  
WASHINGTON, D.C. 20410-5000

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Special Attention of:

**NOTICE** PIH-99-37 (ONAP)

Field ONAP Administrators and Staff  
Field Environmental Officers  
IHBG Recipients

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Cross Reference: 24 CFR 1000.20(a)

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SUBJECT: Indian Housing Block Grant Program: Guidance and Procedures If Tribes  
Do Not Assume Environmental Review Responsibilities under 24 CFR Part 58

**I. Purpose**

The purpose of this Notice is to describe the responsibilities of the recipient and of the HUD Area Office of Native American Programs (ONAP) if the tribe does not assume environmental review responsibilities under 24 CFR Part 58--Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. This Notice also defines the information (see **Appendix A**) to be provided by recipients to the HUD Area ONAP Administrator for compliance with environmental review responsibilities under 24 CFR Part 50--Protection and Enhancement of Environmental Quality (hereafter Part 50). The authority for Indian Housing Block Grant (IHBG) environmental review is Section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4115).

The Indian Housing Plan (IHP) submitted by, or on behalf of the Tribe, indicates when the Tribe selects HUD to fulfill the environmental review responsibilities for the IHBG assisted activities under the provisions of Part 50. As stated in §1000.20(a) of the program regulations for the IHBG Program, a HUD environmental review must be completed for any IHBG activities not excluded from review under §50.19(b) **before** a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds used in conjunction with such IHBG assisted activities with respect to the property.

Tribes (or Tribally Designated Housing Entities (TDHEs)) that select HUD to fulfill the environmental review responsibility submit an **environmental assurance** in accord with §50.3(h).

This Notice uses the terms and thresholds in Part 50 to identify when a particular type of activity is subject to compliance with environmental review procedures. This Notice does not address the eligibility of any activity under the IHGB program. Affordable housing activities that are eligible for IHGB funding are set forth in Section 202 of NAHASDA.

## **II. Responsibilities**

### **A. Recipient's environmental responsibility**

Recipients shall:

- (1) provide an **environmental assurance** in their Indian Housing Plan;
- (2) supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by Part 50;
- (3) carry out mitigating measures required by HUD or select an alternate eligible property;
- (4) not acquire, rehabilitate, convert, lease, repair or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property until HUD approval of the property is received.

**Definitions:** The term "local funds" refers to any nonfederal funds. The term "HUD approval" means environmental approval by the HUD Area ONAP Administrator or his/her designee.

In submitting data to HUD, recipients may use the sample provided in the **Appendix A**, or develop and use an equivalent method. To the extent possible, recipients are to aggregate activities for a single evaluation by the Area ONAP in whose jurisdiction the project is located.

Recipients are to provide separate data for each property or community area. If available, recipients also may provide HUD with previously issued environmental reviews prepared by other local, State, or Federal agencies for the subject property. Recipients are encouraged to obtain outside information at the earliest possible stage. A recipient's failure to provide all necessary and required information in a timely manner may delay the environmental review process and thereby the implementation of the recipient's affordable housing activities.

A recipient's IHGB funds may be used to obtain the environmental information that the recipients are responsible for supplying to the HUD Field Office under this guidance. There is no requirement for an environmental review for the use of these funds for such purpose. Section 50.19(b)(1) and (3) respectively exclude from environmental review procedures both "environmental and other studies" as well as "administrative and management costs." This exclusion extends to the costs of environmental consultants engaged by the recipient and/or payments to local governments for this service.

### **B. HUD Area ONAP Administrator and staff responsibilities**

The Area ONAP Administrator shall serve as the "HUD approving official" as defined in §50.2 for the IHGB program within the HUD field office jurisdiction. The responsibilities of the Area ONAP Administrator and staff are stated in **Appendix B**.

## **III. Activities Not Subject to Environmental Review**

### **A. Documentation is not required.**

Except in extraordinary circumstances, documentation is **not** required for activities that do not require environmental review (reference §50.19). The activities (1) through (12) listed below are categorically excluded from the environmental assessment required by the National Environmental Policy Act (NEPA) and these activities are also not subject to the compliance requirements of related environmental laws and authorities listed in §50.4. Recipients may proceed with any of these activities identified in its IHP without the environmental approval of HUD, unless there are other issues or conditions of funding approval not related to environmental review which must be resolved or met before implementation is allowed. If you have any questions regarding whether or not an activity identified in your IHP is subject to environmental review, contact the Area ONAP Administrator or his/her designee before you commit IHBG, local or other funds to the activity.

- (1) Environmental and other studies, resource identification and the development of plans and strategies;
- (2) Information and financial advisory services;
- (3) Administrative and management expenses;
- (4) Public and supportive services that will not have a physical impact or result in any physical changes;
- (5) Inspections and testing of properties for hazards or defects;
- (6) Purchase of insurance;
- (7) Purchase of tools;
- (8) Engineering or design costs;
- (9) Technical assistance and training;
- (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
- (11) Tenant-based rental assistance;
- (12) Operating costs including maintenance, security, operation, utilities, furnishings, supplies, staff training and recruitment and other incidental costs; and
- (13) Housing pre-development costs including legal, consulting, developer and other costs related to site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

**B. Limited documentation is required.**

Limited documentation is required for certain activities. Even though these activities do not require environmental review, compliance with certain laws must be documented. Certain affordable housing activities are categorically excluded from an environmental assessment required by NEPA (§50.19) and these activities are not generally subject to the compliance

requirements of the Federal laws and authorities cited in §50.4, except as noted below. The activities (1) and (2) listed below require a finding of compliance with some of the laws or authorities and therefore HUD approval prior to implementation.

(1) Activities to assist homeownership of existing dwelling units, including closing costs and downpayment assistance to homebuyers, interest buydowns and similar activities that result in transfer of title to the property (referenced in §50.19(b)(15)). These activities are subject to the requirements of: the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128) as amended by the National Flood Insurance Reform Act of 1994; the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501 et. seq.); and 24 CFR 51.303(a)(3) Airport Runway Clear Zones and Clear Zones.

(2) Equipment purchase (§50.19(b)(13)) as part of operating costs) is subject to compliance with the requirements of: the Flood Disaster Protection Act of 1973 as amended by the National Flood Insurance Reform Act of 1994. If equipment is Federally-assisted and located within the special flood hazard area, flood insurance is required.

#### **IV. Activities Subject to Environmental Review (reference §§50.20, 50.31, and 50.42)**

##### **A. The following activities are subject to environmental review.**

(1) Any activity that may have a significant impact to the human environment including: (a) new construction, (b) conversion of land use (including demolition) from non-residential to residential **or** from residential to non-residential use; and (c) acquisition of undeveloped land including acquisition for future development;

(2) Major rehabilitation and improvement of existing structures;

(3) Minor rehabilitation and repair of existing structures;

(4) Acquisition of existing structures; and

(5) Leasing or rental assistance involving existing structures.

##### **B. Qualified data sources**

Recipients are encouraged to obtain outside information at the earliest possible stage. The sample provided in **Appendix A** (or an equivalent method) should be used for providing HUD with the information pertaining to compliance with the Federal environmental laws and authorities. Information provided by recipients must be from a qualified data source.

**Definition:** a qualified data source may include any Federal, State, local, or tribal agency with expertise or experience in environmental protection or any other source qualified to provide reliable information on the particular subject. One letter from a qualified source could possibly provide threshold information for several of the applicable Federal environmental laws and authorities.

##### **C. Federal environmental laws and authorities that apply to various IHBG activities**

**(1) Leasing or rental assistance involving existing structures:**

Under Part 50, leasing or rental assistance involving existing housing and non-residential properties is generally subject only to applicable authorities for properties located within coastal barrier resources, contaminated sites, flood prone or wetland locations, or for project-based leasing activities. IHBG rental assistance under section 202(3) under Housing Services (25 U.S.C. 4132) would fall into this category. The use of IHBG assistance to make available affordable housing by subsidizing rental payments other than tenant-based requires that the proposed property to be used for rental assistance be in compliance with the above mentioned Federal laws and authorities. Refer to section G(1) of Appendix A.

**(2) Acquisition of existing structures:**

Acquisition of existing structures is subject to the same authorities as lease activities as well as generally to the applicable authorities for properties requiring flood insurance protection, or located within clear or accident potential zones of airports and airfields. IHBG assistance for real property acquisition under section 202(2) would fall into this category, if it were limited to acquisition of existing structures and conformed with §50.20(a)(4). Refer to section G(2) of Appendix A.

**(3) Minor rehabilitation<sup>1</sup> and repair of existing structures:**

Minor rehabilitation or repair activities are subject to the same authorities as lease and acquisition of existing structures as well as to the applicable authority for properties that are historic or affect a historic property. This also includes archeological and cultural resources. IHBG assistance for moderate rehabilitation under section 202(2) would fall into this category, if it conformed with the thresholds for minor rehabilitation in §50.20(a)(2). Refer to section G(3) of Appendix A.

**(4) For new construction, conversion, acquisition of vacant land (including acquisition for future development) and for the major rehabilitation and improvement of existing structures:**

**(a) Individual actions under §50.20(a)(3):** Individual actions cover new construction or acquisition of land for development of up to four housing units **or** for five or more units of housing on scattered sites where the housing sites are more than 2,000 feet apart and there are not more than four units on any one site. Refer to section G(4) of Appendix A. Except in extraordinary circumstances, an environmental assessment for compliance with NEPA is **not** required for "individual actions," however "individual actions" are subject to compliance with other environmental reviews under the applicable Federal laws and authorities cited in §50.4.

**(b) Other actions:** For new construction (other than for "individual actions"), for conversion of land use (including demolition) from nonresidential to residential (or from residential to nonresidential), for the acquisition of vacant land for future development, or for the major rehabilitation and improvement of existing structures,-- an **environmental assessment** is required for compliance with NEPA and all applicable Federal laws and authorities cited in §50.4. IHBG assistance for new construction, reconstruction, site improvement, development of utilities and utility services, conversion and demolition under section 202(2) would fall into this category.

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<sup>1</sup> Minor rehabilitation means proposed fixing and building repair: (i) where the estimated cost of the work is less than 75 percent of the property value after completion; (ii) that does not involve changes in land use from residential to nonresidential, or from nonresidential to residential; and (iii) that does not increase unit density by more than 20 percent.

Also, IHBG assistance for substantial rehabilitation would fall into this category if it does not meet the criteria for categorical exclusion of minor rehabilitation in §50.20(a)(2). In addition, any activity that may have a significant impact to the human environment may require an **environmental impact statement**. Refer to section G(5) of Appendix A.

## **V. Environmental review: threshold determinations and compliance documentation**

Each question below is numbered as it appears in section G of Appendix A or equivalent.

### **Question #1: Is the property located within designated coastal barrier resources?**

**Threshold:** Recipients are **prohibited** by the Coastal Barrier Resources Act, as amended, (16 U.S.C. 3501 et seq.) from using Federal financial assistance for properties in their IHBG program if the properties are located within designated coastal barriers of the Atlantic Ocean, Gulf of Mexico, or the Great Lakes.

**Documentation:** Recipients are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient states that its program operates in an area or community that does not contain any shores along the Atlantic Ocean, the Gulf of Mexico, or the Great Lakes.

**B.** For a recipient whose program operates in an area or community that does contain shores along the Atlantic Ocean, the Gulf of Mexico, or the Great Lakes, the recipient provides HUD with a finding made by a qualified source based upon the official map issued by the Department of the Interior or the flood insurance rate maps (FIRM) issued by the Federal Emergency Management Agency stating that the recipient's proposed property or project is not located within designated coastal barrier resources. The map panel number must be cited.

**Example:** The finding is that the coastal property is not located within designated coastal barrier resources as shown on FIRM map for Cameron County, TX, community-panel number 480101 0005 A, map revised March 18, 1991.

### **Question #2: Is the property contaminated by toxic chemicals or radioactive materials?**

**Threshold:** HUD policy, as described in § 50.3(i), provides that "(1)...all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property. (2) HUD environmental review of multifamily and non-residential properties shall include evaluation of previous uses of the site and other evidence of contamination on or near the site, to assure that occupants of proposed sites are not adversely affected by the hazards...". HUD will not approve the provision of financial assistance to residential properties located on contaminated sites that are not found to meet the criterion in (1) above. Sites known or suspected to be contaminated by toxic chemicals or radioactive materials include, but are not limited to, sites which: (i) are listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) are located within 3,000 feet of a toxic or solid waste landfill site; or, (iii) have an underground storage tank (which is not for residential fuel).

**Documentation:** Recipients are to select either **A** or **B** for the condition that best describes their

project and report the option selected in Appendix A or equivalent.

**A.** The recipient provides HUD with a finding made by a qualified data source stating that the property proposed for use in the IHBG program: (i) is not listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) is not located within 3,000 feet of a toxic or solid waste land fill site; (iii) does not have an underground storage tank (which is not a residential fuel tank); and (iv) is not known or suspected to be contaminated by toxic chemicals or radioactive materials.

**B.** The recipient states that the property: (i) is listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) is located within 3,000 feet of a toxic or solid waste land fill site; (iii) does have an underground storage tank (which is not a residential fuel tank); or (iv) is known or suspected to be contaminated by toxic chemicals or radioactive materials. For any of these conditions, the recipient must provide an American Society for Testing Materials (ASTM) Phase I report.

### **Question #3: Is the property located within a flood hazard area or designated wetlands?**

**Threshold:** Projects located within a flood hazard area or designated wetland are subject to Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) respectively. HUD's implementing regulations at 24 CFR Part 55--Floodplain Management, prescribe measures for protecting floodplains. HUD will require 30 to 60 days in most cases to perform the required processing. Generally, Part 55 does not apply to financial assistance for existing single-family properties proposed for acquisition or lease and located within the floodplain, provided (i) the existing property is not located within a floodway or coastal high hazard area; (ii) the existing property does not involve substantial improvement, which for flood hazard purposes is defined in §55.2(b)(8); and (iii) in accordance with §55.12(b)(1), the community in which the property is located is in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (i.e., not suspended from program eligibility or placed on probation under 44 CFR 59.24); and (iv) that the existing property does not involve a critical action.

Under the provisions of these Executive Orders HUD must avoid financial support for covered activities, unless it can demonstrate that there are no practicable alternatives outside the floodplain or wetland. Where flood-free and wetland-free sites are available within the community or housing market area, these are considered practicable.

Floodplain properties covered under E.O. 11988 are properties located within a Special Flood Hazard Area (SFHA) or for critical actions, properties within the 500-year floodplain. The critical action standard applies to the proposed use of IHBG assistance to structures or facilities located within the 500-year floodplain, when the structures or facilities are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events (24 CFR Part 55).

**Documentation:** Recipients are to select **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient provides HUD with a finding that the property is **not** located within the Special Flood Hazard Area or designated wetlands.

**B.** The recipient provides HUD with a finding that the property is located within the Special

Flood Hazard Area or designated wetlands.

The response as to whether a property is located within a Special Flood Hazard Area or designated wetlands can be made as follows. To make a wetlands finding, the recipient would use maps issued by the Department of the Interior (DOI) for the National Inventory of Wetlands. To make a floodplain finding, the recipient would use maps issued by the Federal Emergency Management Agency (FEMA) for the National Flood Insurance Program. These findings should cite the map panel number of the official maps issued by DOI and FEMA on the basis of which the findings were made. For flood map information, see the FEMA homepage [<http://www.fema.gov/nfip/fmapinfo.htm>].

**Note:** If the property is found to be located within a SFHA, please proceed to the next section on Flood Insurance Protection and document the requisite insurance amount and period of coverage. This is not necessary if the project will consist of leasing of an existing structure that does not involve IHBG funds for repair or rehabilitation.

#### **Question #4: Is the property in a location requiring flood insurance?**

**Threshold:** The Flood Disaster Protection Act of 1973 requires owners of HUD-assisted SFHA properties to purchase and maintain flood insurance protection as a condition of approval of any HUD financial assistance for proposed acquisition, rehabilitation, conversion, repair or construction of structures located within the Special Flood Hazard Area. The statutorily-prescribed period and dollar amount of flood insurance is discussed below and is more stringent for grant assistance than for loan types of assistance. Recipients cannot be self-insurers under the National Flood Insurance Program. As noted above, leasing activities are not subject to this requirement unless repairs or rehabilitation is assisted with IHBG funds.

**Duration of Flood Insurance Coverage:** The statutory period for such coverage may extend beyond project completion. For loans, loan insurance or guaranty, coverage must be continued for the term of the loan. For grants and other non-loan forms of assistance, coverage must be continued for the life of the property, regardless of transfer of ownership of such property. The statute mandates that "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property." (42 U.S.C 4012a(a)).

**Dollar Amount of Flood Insurance Coverage:** For loans, loan insurance or guaranty, the amount of coverage need not exceed the outstanding principal balance of the loan. For grants and other non-loan forms of assistance, the amount of coverage must be at least equal to the development or project cost (less estimated land cost, if any) or to the maximum limit of coverage made available by the Act with respect to the particular type of building involved (single family, other residential, or non-residential), whichever is less. The development or project cost is the total cost for acquiring, constructing, reconstructing, repairing, or improving the building. This cost must include both the Federally-assisted and non-Federally assisted portion of the cost, including any machinery, equipment, fixtures, and furnishing. If the Federal assistance includes any portion of the cost of any machinery, equipment, fixtures or furnishing, the total cost of that item must be covered. The use of IHBG assistance for proposed furnishings for housing is not eligible under section 202.

**Proof of Purchase of Flood Insurance Protection:** Once HUD has approved a specific SFHA property, the recipient's file for any such property shall contain "proof of purchase" of flood insurance protection. The standard documentation for compliance is the "Policy Declarations" form issued by the National Flood Insurance Program (NFIP) or issued by any property insurance

company offering coverage under NFIP.

**Documentation:** Recipients are to estimate the amount and period of flood insurance coverage and report these in Appendix A or equivalent.

**Question #5: Is the property located within an airport runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield?**

**Threshold:** HUD policy described in 24 CFR part 51, subpart D applies to assisted properties located within Clear Zones (CZ). In the case of new construction, major or substantial rehabilitation (as defined below), and the acquisition of undeveloped land, this HUD policy also applies to properties located within Accident Potential Zones (APZ). Assisted construction or major rehabilitation of any property located on a clear zone site is prohibited for a project to be frequently used or occupied by people.

**Definition:** Rehabilitation (including conversion) is "major" or "substantial" when the estimated cost of the work is 75 percent or more of the property value after rehabilitation or, in the case of property in an APZ, when the work would change the use of the facility to a use that is not generally consistent with the recommendations of the Department of Defense's (DOD) "Land Use Compatibility Guidelines for Accident Potential Zones," or significantly increases the density or number of people at the site [§51.302(b)(1) and (2)].

The provision of HUD financial assistance in a CZ is allowed for properties proposed for acquisition or lease with or without minor rehabilitation or repair [§51.302 (c)]. Upon HUD approval for acquisition or lease of a property in a CZ, (a) HUD will give advance written notice to the prospective property buyer or lessor in accordance with §51.303(a)(3); and (b) a copy of the HUD notice signed by the prospective property buyer or lessor will be placed in the property file (for a sample notice, see **Appendix D**). The written notice informs the prospective buyer or lessor of the potential hazards from airplane accidents which studies have shown are more likely to occur within clear zones than in other areas around an airport/airfield and the potential by airport or airfield operators, who may wish to purchase the property at some point in the future as part of a clear zone acquisition program.

For properties located in an APZ, HUD shall determine whether the use of the property is generally consistent with DOD guidelines.

**Documentation:** Recipients are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient provides HUD with a finding from a qualified data source which states that the property proposed for assistance is not located within 3,000 feet of a civil airport or military airfield.

**B.** For properties located within 3,000 feet of a civil airport or military airfield, the recipient provides HUD with a finding from the airport or airfield operator stating whether or not the property proposed for assistance is located within a runway CZ (civil airport) or CZ or APZ (military airfield). For properties that are located within a runway CZ, CZ, or APZ, recipients who propose to rehabilitate such a property are to provide HUD with estimates of the cost of the proposed rehabilitation and the property value after the rehabilitation.

**Question #6: Is the property listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, a historic district; or is a property whose area of potential effect includes a historic district or property?**

**Threshold:** If a property is proposed for repair (see definition below), rehabilitation, conversion, new construction, or the acquisition of undeveloped land, a HUD determination is needed following the Department of the Interior's Standards and Guidelines for Evaluation. In consultation with the DOI-approved Tribal Historic Preservation Officer (THPO), or if there is no THPO, then with the State Historic Preservation Officer (SHPO), HUD will make a determination whether the property is: (a) listed on or eligible for listing on the National Register of Historic Places; or, (b) located within or directly adjacent to a historic district; or (c) a property whose area of potential effects includes a historic district or property. (The National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq.)

**Definition:** The term "repair" for historic preservation purposes does not include in-kind replacement or incidental maintenance of external and internal building features.

Historic properties and districts are subject by law to special protection and historic preservation processing which HUD must perform to comply with the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800). Recipients seeking information from the THPO (or SHPO) need to allow sufficient time to obtain information from the THPO (or SHPO). The website for THPOs is [<http://www2.cr.nps.gov/tribal/thpo1.htm>].

**Note:** For properties determined to be historic properties, (or properties whose area of potential effects includes a historic district or property) even if the THPO (or SHPO) concludes that no adverse effect will occur as a result of the assisted project, HUD will require 30 to 90 days in most cases to perform the processing required by 36 CFR Part 800.

**Documentation:** The recipient should select either **A, B, or C** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient proposes to use IHBG assistance for the rehabilitation, conversion, or construction of the property and provides HUD with a THPO's (or SHPO's) finding that the proposed rehabilitation, conversion, or construction: (i) will have no effect on historic properties; or (ii) will have an effect on historic properties not considered adverse.

**B.** The recipient proposes to use IHBG assistance for rehabilitation, conversion, or construction of the property and provides HUD with a THPO's (or SHPO's) finding that the proposed rehabilitation, conversion, or construction will have an adverse effect on historic properties.

**C.** The recipient provides HUD with a copy of a letter from a THPO (or SHPO) stating the reasons for not being able to provide the recipient with the requested information or finding.

**Question #7: Is the property located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature?**

**Threshold:** Properties that are located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature are subject to HUD safety standards (reference 24 CFR Part 51, Subpart C). However, under the IHBG program these standards would apply only if a recipient proposes: (a) construction of a building; (b) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; (c)

rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or (d) the acquisition of undeveloped land. In the case of tanks containing common liquid fuels, the requirement for an acceptable separation distance (ASD) calculation only applies to storage tanks that have a capacity of more than 100 gallons.

**Documentation:** Recipients are to select one of the following options **A, B, or C** that best describes the condition of the project, and report the option selected in Appendix A or equivalent.

**A.** The proposed project does not include: (i) the construction of a building; (ii) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or (iv) the acquisition of undeveloped land.

**B.** The proposed project includes: (i) construction of a building; (ii) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or, (iv) the acquisition of undeveloped land. The recipient provides HUD with a finding by a qualified data source that the property proposed for IHBG assistance is not located within the immediate vicinity of hazardous industrial operations handling fuels or chemicals of an explosive nature by citing data and maps used.

**C.** The recipient proposes: (i) construction of a building; (ii) conversion of a non-residential land use to a residential land use including making an uninhabitable building habitable; (iii) rehabilitation that increases the density of a residential structure by increasing the number of dwelling or rooming units; or (iv) the acquisition of undeveloped land. The recipient provides HUD with a finding made by a qualified data source which states that: (i) the proposed property is located within the immediate vicinity of hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature; (ii) the type of and scale of such hazardous industrial operations; (iii) the distance of such operations from the proposed property; (iv) a preliminary calculation of the **acceptable separation distance** (ASD) between such operations and the proposed property; and, (v) a recommendation as to whether it is safe to use the property in accord with 24 CFR Part 51, Subpart C.

#### **Question #8: Is the site noise-impacted?**

**Threshold:** For new construction which is to occur in high noise areas, recipients shall incorporate noise attenuation features to the extent required by HUD environmental criteria and standards contained in Subpart B (Noise Abatement and Control) of 24 CFR Part 51. Since the acquisition of undeveloped land with IHBG funds is eligible only if the land will be used for the development of IHBG assisted housing, the standards that apply to new construction also apply to land acquisition.

**Definition:** High noise areas are those in which the day-night average of exterior noise exceeds 65 decibels.

Approvals in a normally unacceptable noise zone (exceeding 65 decibels but not exceeding 75 decibels) require a minimum of 5 decibels of additional noise attenuation for buildings having noise sensitive (e.g. residences) uses if the day-night average is greater than 65 decibels but does not exceed 70 decibels, or minimum of 10 decibels of additional noise attenuation if the day-night average is greater than 70 decibels but does not exceed 75 decibels.

In unacceptable noise zones (exceeding 75 decibels) the use of IHBG assistance is prohibited without the specific approval by the HUD Assistant Secretary for Community Planning and Development of the noise attenuation measures proposed to be used. It is also possible in such a circumstance that an environmental impact statement would have to be prepared.

For major rehabilitation projects and conversions located in the normally unacceptable and unacceptable noise zones, HUD actively seeks to have noise attenuation features incorporated as part of the rehabilitation to be undertaken. For those properties in unacceptable noise zones HUD strongly encourages the conversion of such properties to land uses more compatible with the high noise levels.

**Documentation:** Recipients are to select **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient provides HUD with a finding made by a qualified data source stating that the property proposed for new construction, major rehabilitation, or conversion in its IHBG program is not located within: (i) 1,000 feet of a major noise source, road, or highway; (ii) 3,000 ft of a railroad; or, (iii) 1 mile of a civil or 5 miles of a military airfield.

**B.** The recipient provides HUD with a finding made by a qualified data source stating whether the property is located within a normally unacceptable or unacceptable noise zone; and, if so: (i) stating that the plans for the property proposed by the recipient for new construction, major rehabilitation or conversion activity in its IHBG program incorporate noise attenuation features in accord with HUD environmental criteria and standards contained in Subpart B (Noise Abatement and Control); and (ii) providing HUD the plans and a statement of the anticipated interior noise levels.

#### **Question #9: Is the project consistent with the State's coastal zone management?**

**Threshold:** The Coastal Zone Management (CZM) Act of 1972 (16 U.S.C. 1451 et seq.) only applies to new construction, major rehabilitation, conversion and substantial improvement activities, and the acquisition of undeveloped land. Projects which can affect the coastal zone must be carried out in a manner consistent with the approved State coastal zone management program under Sec. 307 of the Coastal Zone Management Act of 1972, as amended.

**Documentation:** Recipients are to select either **A**, **B**, or **C** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient states that its program operates in a community that does not contain coastal areas of the Atlantic or Pacific Oceans, the Great lakes or the Gulf of Mexico.

**B.** The recipient provides HUD with a finding made by a qualified source that even though the recipient operates in a community which contains coastal areas of the Atlantic or Pacific Oceans, the Great Lakes or the Gulf of Mexico, the IHBG assisted property is not located in a coastal zone, as defined in the relevant State's Coastal Zone Management Plan.

**C.** The proposed assisted activity would be located within a coastal zone and the recipient has provided HUD with a finding made by the State CZM agency that the proposed assisted activity is consistent with the approved State CZM program.

**Question #10: Does the project affect a sole source aquifer?**

**Threshold:** The sole source aquifer (SSA) authority only applies to proposed IHBG assisted new construction and conversion activities and the acquisition of undeveloped land. Projects which can affect aquifers designated by the EPA must be reviewed for impact on such designated aquifer sources. The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 et seq., and 21 U.S.C. 349) requires protection of drinking water systems which are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health. For information see the homepage of the EPA Office of Ground Water and Drinking Water at (<http://www.epa.gov/OGWDW//ssanp.html>).

**Documentation:** Recipients are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient provides HUD with a finding made by a qualified data source stating that the property proposed for IHBG assistance is not located on nor does not affect a sole source aquifer designated by EPA.

**B.** For the recipient whose proposed assisted project is located on or would affect a sole source aquifer designated by the EPA, the recipient has identified the aquifer and has provided HUD with an explanation of the effect on the aquifer from a qualified data source, and/or a copy of any comments on the proposed project that the recipient has received from the EPA as well as from any State or local agency with jurisdiction for protecting the drinking water system.

**Question #11: Will the project affect an endangered species?**

**Threshold:** The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) applies only to proposed IHBG assisted new construction, conversion activities and the acquisition of undeveloped land. Section 7 of the Act sets out procedures for consultation. Consultation will be required with the Department of Interior (Fish and Wildlife Service) **or** the Department of Commerce (National Marine Fisheries Service) depending on the species involved. Consultation is required if an activity may affect a listed (endangered or threatened) species or a critical habitat. A conference is required if an action is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of a critical habitat proposed to be designated for such species.

**Documentation:** Recipients are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** For proposed new construction, conversion, or the acquisition of undeveloped land, the recipient has provided HUD with a finding made by a qualified data source that the project is not likely to affect any listed or proposed endangered or threatened species or critical habitat. The finding shall indicate whether the project is located within a critical habitat, and if so, explain why the project is not likely to affect the species or habitat.

**B.** For proposed new construction, conversion, or the acquisition of undeveloped land which is likely to affect listed or proposed endangered or threatened species or a critical habitat, the recipient has provided HUD with a biological assessment prepared by a qualified data source explaining the likely effect, and/or a finding made by the Fish and Wildlife Service of the Department of the Interior **or** the National Marine Fisheries Service of the Department of Commerce stating as acceptable the proposed mitigation that the recipient will provide to protect

any affected, endangered or threatened species or critical habitat.

**Question #12: Does the project affect listed wild and scenic rivers?**

**Threshold:** IHBG assisted activities are subject to the requirements of the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.). New construction, conversion, major or substantial rehabilitation, and the acquisition of undeveloped land which is proposed in areas within one mile of a listed Wild and Scenic River have the potential for impacting this natural resource. For information, see the homepage of National Park Service at [<http://www.nps.gov/rivers/>].

**Documentation:** The recipient should select **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient provided HUD with a finding made by a qualified data source which states that the project is not located within one mile of a listed Wild and Scenic River or the project will not have an effect upon the natural, free flowing or scenic qualities of such a river.

**B.** The project is located within one mile of a listed Wild and Scenic River and the National Park Service (NPS) of the Department of the Interior indicates that the project, as proposed, will have an effect upon the natural, free flowing or scenic qualities of the river.

**Question #13: Does the project affect prime and unique farmland, or other farmland of statewide or local significance?**

**Threshold:** A finding of compliance with the requirements of the Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) must be made for assisted new construction activities and the acquisition of undeveloped land.

**Documentation:** Recipients are to select either **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient provides HUD with a finding from a qualified data source which states that the proposed project site does not include prime or unique farmland, or other farmland of statewide or local significance as identified by the Natural Resources and Conservation Service (NRCS) of the Department of Agriculture, or the project site includes prime farmland but is located in an area committed to urban uses.

**B.** The proposed project site includes farmland and the recipient has requested an evaluation of land type from NRCS using form AD 1006 and has provided the resultant rating to HUD.

**Question #14: Is the project within a "non-attainment" or "maintenance" area and not in conformance with the State Implementation Plan (SIP) for clean air?**

**Threshold:** IHBG assisted activities are subject to the requirements of the Clean Air Act (42 U.S.C. 7401 et seq.). New construction, conversion, major or substantial rehabilitation, and the acquisition of undeveloped land which are located in "non-attainment" or "maintenance" areas as determined by the EPA may need to be modified or mitigation measures developed and implemented.

**Documentation:** Recipients should select **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient has provided HUD with a finding made by a qualified data source which states that the project is located in an "attainment area" or if located in a "non-attainment area" the project conforms with the EPA approved State Implementation Plan (SIP).

**B.** The proposed project is located in a "non-attainment" area and is not in conformance with the SIP.

**Question #15: Is the project located in a neighborhood where the proposed action is likely to raise environmental justice issues?**

**Threshold:** Executive Order 12898 ("Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations") applies to low-income or minority neighborhoods where the recipient proposes the acquisition of housing, the acquisition of land for development, and new construction. Environmental justice issues may include, but are not limited to new, continued or historically disproportionate potential for high and adverse human health and environmental effects on minority or low-income populations. The recipient will need to determine if the site or neighborhood suffers from disproportionate adverse health and environmental effects relative to the community at large. EPA has Federal oversight for this matter. Recipients seeking more detailed information about the Executive Order are encouraged to see the EPA EJ homepage at [<http://es.epa.gov/oeca/oejbut.htm>].

**Documentation:** The recipient should select **A** or **B** for the condition that best describes their project and report the option selected in Appendix A or equivalent.

**A.** The recipient provides HUD with a finding that the project is not likely to raise environmental justice issues.

**B.** The project is likely to raise environmental justice issues and has the potential for new or continued disproportionately high and adverse human health and environmental effects on minority or low-income populations. The recipient must consider mitigation or avoidance of adverse impacts from the project to the extent practicable.

**Question #16: Does the recipient propose: (i) acquisition of land for development of more than four housing units on a site or five or more units of housing, where the housing sites are 2,000 feet or less apart; (ii) infrastructure; (iii) new construction other than for residential activities excluded under §50.20(a)(3); (iv) major rehabilitation of existing structures in accordance with §50.20(a)(2) that involves any of the following conditions: (a) in the case of residential buildings, an increase in the unit density of more than 20 percent; (b) changes in land use (from non-residential to residential or from residential to non-residential); or (c) estimated cost of rehabilitation that is 75 percent or more of the total estimated cost of replacement after rehabilitation; or (v) any other activity not categorically excluded under §50.20(a)?**

**Threshold:** For the above activities, an environmental assessment is required for compliance with NEPA and the implementing regulations of the Council on Environmental Quality (CEQ). It is the policy of the Department to reject proposals which have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality.

**Documentation:** If the answer to question #16 is "Yes," recipients are to provide information on any adverse environmental impacts that affect the project or that the project would create. Recipients are to identify any adverse impacts in terms of: (i) impact on unique natural features or areas; (ii) site suitability, access, and compatibility with surrounding development; (iii) soil stability, erosion, and drainage; (iv) nuisances and hazards (natural and built); (v) availability of water supply and sanitary sewers; (vi) availability of solid waste disposal; (vii) availability of schools, parks, recreation, and social services; (viii) availability of emergency health care, fire and police services; and (ix) availability of commercial/retail and public transportation serving such proposed development. Recipients are to identify any significant impacts to the human environment. Report data and findings in Appendix A.

/s/ Harold Lucas  
Assistant Secretary  
for Public and Indian Housing

**Appendix A**

**24 CFR PART 50 ENVIRONMENTAL REVIEWS PURSUANT TO SECTION 1000.20**

**THRESHOLD REVIEW FOR PROPOSED ACTIVITIES  
INDIAN HOUSING BLOCK GRANT (IHBG) PROGRAM**

IHBG Recipient's Name: \_\_\_\_\_  
IHBG Program Number: \_\_\_\_\_  
Preparer's Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
FAX Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

A. Describe the project. Indicate the number of housing units to be assisted, and/or acreage to be developed. Include street address, if applicable:

B. Attach a map of the community and identify the location of the proposed project. Attach photographs of the property and adjacent properties. Check:

(1) Map of community is attached: Yes \_\_\_\_\_ No \_\_\_\_\_

(2) Photographs of the property and adjacent properties are attached: Yes \_\_\_\_\_ No \_\_\_\_\_

C. Indicate the present and proposed use of the property:

(1) Present use: \_\_\_\_\_

(2) Proposed use: \_\_\_\_\_

D. Which of the following activities are being proposed? Check one or more. For guidance, see paragraph IV, C of the Notice.

(1) Lease or rental assistance involving existing structures \_\_\_\_\_

(2) Acquisition of existing structures \_\_\_\_\_

(3) Minor rehabilitation<sup>1</sup> or repair of existing structures \_\_\_\_\_

<sup>1</sup> Minor rehabilitation means proposed fixing and building repair: (i) where the estimated cost of the work is less than 75 percent of the total estimated cost of replacement after completion; (ii) that does not involve changes in land use from residential to nonresidential, or from nonresidential to residential; and (iii) that does not increase unit density by more than 20 percent.

- (4) Major rehabilitation or improvement of existing structures \_\_\_\_\_
- (5) New construction (including demolition), conversion, or infrastructure improvements including the development of utilities and services \_\_\_\_\_
- (6) Acquisition of undeveloped land for future development \_\_\_\_\_

E. Report the repair/rehabilitation costs and related property values, only if repair or rehabilitation of existing structures is proposed:

- (1) Property value before repair/rehab \$ \_\_\_\_\_
- (2) Repair/rehab costs (est.) \$ \_\_\_\_\_
- (3) Property Value after repair/rehab \$ \_\_\_\_\_

F. Are there any physical or environmental conditions that are or may indicate a significant impact on the human environment? Indicate: No\_\_\_\_\_, Uncertain\_\_\_\_\_, or Yes\_\_\_\_\_.

G. Respond to these questions. For guidance, see section C in IV of the Notice:

- (1) For leasing or rental assistance involving of existing structures:  
Complete questions #1 through 3 only.
- (2) For acquisition of existing structures:  
Complete questions #1 through 5 only.
- (3) For minor rehabilitation and repair of existing structures:  
Complete questions #1 through 6 only.
- (4) Individual actions: For new construction or acquisition of land for development of up to four housing units **or** for five or more units of housing on scattered sites where the housing sites are more than 2,000 feet apart and there are not more than four units on any one site: Complete questions #1 through 15 only.
- (5) Other actions: Compete questions #1 through 16 for other new construction (including demolition), acquisition of undeveloped land, conversion from one land use to another, infrastructure improvements, or major rehabilitation and improvement (unless otherwise noted) of existing buildings.

**Questions:**

#1 Is the property located within designated coastal barrier resources?  
Indicate: A\_\_\_\_\_ or B\_\_\_\_\_  
Documentation:

#2 Is the property contaminated by toxic chemicals or radioactive materials?

Indicate: A\_\_\_\_\_ or B\_\_\_\_\_
Documentation:

#3 Is the property located within a flood hazard area or designated wetland?
Indicate: A\_\_\_\_\_ or B\_\_\_\_\_
Documentation:

#4 Is the property in a location requiring flood insurance protection?
Indicate: A\_\_\_\_\_ or B\_\_\_\_\_
Estimated coverage amount of flood insurance \$\_\_\_\_\_
Indicate coverage period:
Year in which flood insurance policy is to start:\_\_\_\_\_
Year in which flood insurance policy is to stop:\_\_\_\_\_

#5 Is the property located within an airport runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield?
Indicate: A\_\_\_\_\_ or B\_\_\_\_\_
Documentation:

#6 Is the property listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, a historic district; or is a property whose area of potential effect includes a historic district or property?
Indicate: A\_\_\_\_\_, B\_\_\_\_\_, or C\_\_\_\_\_
Documentation:

#7 Is the property located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature? Indicate: A\_\_\_\_\_, B\_\_\_\_\_, or C\_\_\_\_\_
Documentation:

#8 Is the site noise-impacted?
Indicate: A\_\_\_\_\_ or B\_\_\_\_\_
Documentation:

#9 Is the project consistent with the State's coastal zone management?
Indicate: A\_\_\_\_\_, B\_\_\_\_\_, or C\_\_\_\_\_
Documentation:

#10 Does the project affect a sole source aquifer?
Indicate: A\_\_\_\_\_ or B\_\_\_\_\_
Documentation:

#11 Does the project affect an endangered species?

Indicate: A\_\_\_\_\_ or B\_\_\_\_\_

Documentation:

#12 Does the project affect listed wild and scenic rivers?

Indicate: A\_\_\_\_\_ or B\_\_\_\_\_

Documentation:

#13 Does the project affect prime and unique farmland, or other farmland of statewide or local significance?

Indicate: A\_\_\_\_\_ or B\_\_\_\_\_

Documentation:

#14 Is the project within a "non-attainment" area and not in conformance with the State Implementation Plan for clean air? Indicate: A\_\_\_\_\_ or B\_\_\_\_\_

Documentation:

#15 Is the project located in a neighborhood which suffers from adverse human health or environmental conditions?

Indicate: A\_\_\_\_\_ or B\_\_\_\_\_

Documentation:

#16: Does the recipient propose: (i) acquisition of land for development of more than four housing units on any one site **or** five or more units of housing, where the housing sites are 2,000 feet or less apart; (ii) infrastructure; (iii) new construction other than for residential activities excluded under §50.20(a)(3); (iv) major rehabilitation of existing structures in accordance with §50.20(a)(2) that involves any of the following conditions: (a) in the case of residential buildings, an increase in the unit density of more than 20 percent; (b) changes in land use (from non-residential to residential or from residential to non-residential); or (c) estimated cost of rehabilitation that is 75 percent or more of the total estimated cost of replacement after rehabilitation; or (v) any other activity not categorically excluded under §50.20(a)?

Indicate: Yes\_\_\_\_\_ or No\_\_\_\_\_. If the answer is "yes," indicate which of the above activities (i), (ii), (iii), (iv) and/or (v) is proposed.

Documentation: For compliance with the National Environmental Policy Act, report data needed for HUD's preparation of the environmental assessment. Submit data on separate sheets. Indicate any potential impacts of the proposed project on the surrounding area as well as the potential impact of the surrounding area on the proposed project. Identify any adverse and beneficial impacts in terms of:

- (1) Unique natural features and areas
- (2) Site suitability, access, and compatibility with surrounding development
- (3) Soil stability, erosion, and drainage
- (4) Hazards and nuisances (both natural and built)
- (5) Water supply/sanitary sewers
- (6) Solid waste disposal
- (7) Schools, parks, recreation, and social services
- (8) Emergency health care, fire and police services
- (9) Commercial/retail and transportation
- (10) Other: (i) project's conformance with the locality's or tribal community's comprehensive plans and zoning; (ii) proposed displacement of residents or structures by the project; and (iii) energy conservation measures proposed for the project.

## Appendix B

### HUD Area ONAP Administrator and staff responsibilities

The Area ONAP Administrator shall serve as the "HUD approving official" as defined in §50.2 for the IHBG program within the HUD field office jurisdiction. The ONAP Administrator and staff shall:

- (1) provide adequate outreach to the IHBG recipient and communicate with the recipient to explain the environmental review responsibilities and how the recipient may obtain the environmental information that is to be supplied to HUD;
- (2) make certain that the environmental assurance is submitted with the Indian Housing Plan (IHP) accepted for processing;
- (3) assure that the grant agreement contains or, as appropriate, has attached to it the following items:
  - (a) the environmental procedures with explicit warning that IHBG recipients are not to acquire, rehabilitate, convert, lease, repair or construct property, nor commit HUD or nonfederal funds to these IHBG program activities with respect to any eligible property, until HUD environmental approval of the property is received from the Area ONAP Administrator;
  - (b) an appendix containing a copy of this Notice;
  - (c) the name, address, phone and FAX numbers of the Area ONAP Administrator to whom recipients must supply the environmental information and from whom recipients obtain environmental approval of the project; and
  - (d) a schedule requirement for the recipient's submission of environmental information to the Area ONAP Administrator as set forth in this Notice;
- (4) use any information (in accordance with §50.32) supplied by the recipient or its contractor, **provided** HUD independently evaluates the information, so that HUD will be responsible for its accuracy, and supplements the information (if necessary) to conform to the requirements of Part 50 and prepares the environmental finding;
- (5) establish as necessary (in accordance with §50.22) commitments for environmental management and monitoring of the implementation of mitigation and other safeguards;
- (6) complete the environmental review in accordance with Part 50 and upon satisfactory completion, document the Department's compliance on the "Sample Field Notes Checklist for HUD Form-4128" (April 10, 1997) and complete HUD form-4128--Environmental Assessment and Compliance Findings for the Related Laws; attach to form-4128 the information provided by the recipient or other sources used for completing the environmental analysis and findings; and obtain the signature of the ONAP Administrator as the HUD Approving Official. These documents serve as the environmental review record, which the Area ONAP must maintain and make available upon request.

On HUD form-4128, complete both Part A (Compliance Findings for §50.4 Related Laws) **and** Part B (Environmental/Program Factors) for HUD approval of all actions except those categorically excluded from the NEPA assessment. For example, Parts A and B must be filled out

for: (i) acquisition of land for developments of more than four housing units on any one site **or** five or more units of housing, where the housing sites are 2,000 feet or less apart; (ii) infrastructure including development of utilities and services; (iii) new construction other than for residential activities excluded under §50.20(a)(3); (iv) major rehabilitation of existing structures in accordance with §50.20(a)(2) that involves any of the following conditions: (a) in the case of residential buildings, an increase in the unit density of more than 20 percent; (b) changes in land use (from non-residential to residential or from residential to non-residential); or (c) estimated cost of rehabilitation that is 75 percent or more of the total estimated cost of replacement after rehabilitation; or (v) any other activity not categorically excluded under §50.20(a). Refer to section C(4)(b) in IV of the Notice. Guidance is also provided in the "Sample Field Notes Checklist for HUD Form-4128--Environmental Assessment and Compliance Findings for the Related Laws."

(7) Complete only **Part A** (Compliance Findings for §50.4 Related Laws) for HUD approval of the categorically excluded activities **(a)** through **(d)** listed below. However, any categorical exclusion having the potential for significant impact because of extraordinary circumstances under §50.20(b) also requires completion of both Part A (Compliance Findings for §50.4 Related Laws) **and** Part B (Environmental/Program Factors).

(a) **Individual actions under §50.20(a)(3):** Individual actions cover new construction or acquisition of land for development of up to four housing units **or** for five or more units of housing on scattered sites where the housing sites are more than 2,000 feet apart and there are not more than four units on any one site. Refer to section C(4)(a) in IV of the Notice.

(b) minor rehabilitation of existing structures (§50.20(a)(2)) when the following conditions are met: (i) in the case of residential buildings, the unit density is not changed more than 20 percent; (ii) the project does not involve changes in land use (from non-residential to residential or from residential to non-residential); and (iii) the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation; or

(c) acquisition or disposition of an existing structure.

(8) prepare the written approval letter or other typed letter, if approval is not warranted (see form letters in **Appendix C**) for the ONAP Administrator's signature and dispatch the written notification to the recipient.

## Appendix C

### REPLY TO RECIPIENT REGARDING HUD ENVIRONMENTAL APPROVAL

[Type on HUD Area ONAP stationery]

Dear recipient:

We have reviewed the information that you supplied to us in your letter of (month, day, year) requesting environmental processing under the Indian Housing Block Grant (IHBG) Program for tribes not assuming environmental responsibilities under 24 CFR Part 58.

[Type the appropriate option]

#### **[Option 1: HUD approval]**

The following property (or neighborhood area) listed in your submission does not exceed any of the thresholds that activate the Federal environmental laws and authorities. Therefore HUD approves the use of this property (or neighborhood area) in your local IHBG program. You may proceed to commit or expend IHBG grant funds and non-HUD funds to undertake property acquisition, rehabilitation, conversion, leasing, repair or construction for this property (or properties within this neighborhood area).

#### **[Option 2: HUD environmental approval with special conditions]**

The following property (or neighborhood area) listed in your submission exceeds one or more of the thresholds that activate the Federal environmental laws and authorities, and it was necessary for us to perform a compliance review. We approve the use of this property (or neighborhood area) in your local IHBG program. You may proceed to commit or expend IHBG grant funds and non-HUD funds to undertake property acquisition, rehabilitation, conversion, leasing, repair or construction for this property (or properties within this neighborhood area) under the following specified conditions: (explain the specified conditions).

#### **[Option 3: HUD request for additional information to perform either the threshold determination or the compliance review, or both]**

The following property (or neighborhood area) appears to exceed one or more of the thresholds that activate the Federal environmental laws and authorities. Therefore, (we request that you provide the following necessary information so that we may perform the threshold determination) or (a compliance review is required and significantly more time will be needed for us to complete this review). You are prohibited from committing or expending IHBG funds and non-HUD funds to undertake property acquisition, rehabilitation, conversion, leasing, repair or construction with respect to any eligible property (or neighborhood area), until HUD approval is received for the specific property (or neighborhood area). If you wish to remove this property (or neighborhood area) from further consideration, please call us as soon as possible. For this property (or neighborhood area), the following action is required (explain action required).

#### **[Option 4: HUD disapproval]**

The following property (or neighborhood area) exceeds one or more of the thresholds that activate the Federal environmental laws and authorities, and for the following reasons HUD disapproves the use of this property (or neighborhood area) in your local IHBG program. You are prohibited from committing or expending IHBG funds to undertake property acquisition, rehabilitation, conversion, leasing, repair or construction with respect to this property (or neighborhood area). For this property (or neighborhood area), the specific reasons for this disapproval are the following: (explain reasons).

For further information regarding this review, please contact [type the name of ONAP staff person processing the request, his/her phone number and extension, office hours, FAX number, and e-mail address].

Yours truly,

Administrator  
Office of Native American Programs

cc:  
File: Environmental Review Record  
Area IHBG Grants Administration  
Beneficiary Tribe (if different than recipient)

## Appendix D

### NOTICE TO PROSPECTIVE BUYERS OF PROPERTIES LOCATED IN RUNWAY CLEAR ZONES AND CLEAR ZONES

[In accordance with 24 CFR 51.303(a)(3), this Notice must be given to anyone interested in using HUD assistance, subsidy or insurance to buy an existing property which is located in either a runway Clear Zone<sup>1</sup> at a civil airport or a Clear Zone at a military installation. HUD staff should fill out the area shown in parentheses below. **The original signed copy of the Notice to Prospective Buyers must be maintained as part of the HUD project file on this action.**]

The property which you are interested in purchasing at (street address, city, state, zip code) is located in the Runway Clear Zone/Clear Zone for (provide the name of the airport/airfield, city, state).

Studies have shown that if an aircraft accident were to occur, it is more likely to occur within the Runway Clear Zone/Clear Zone than in other areas around the airport /airfield. Please note that we are not discussing the chances that an accident will occur, only where one is most likely to occur.

You should also be aware that the airport/airfield operator may wish to purchase the property at some point in the future as part of a clear zone acquisition program. Such programs have been underway for many years at airports and airfield across the country. We cannot predict if or when this might happen since it is a function of many factors, particularly the availability of funds but it is a possibility.

We want to bring this information to your attention. Your signature on the space below indicates that you are now aware that the property you are interested in purchasing is located in a Runway Clear Zone/Clear Zone.

\_\_\_\_\_  
Signature of prospective buyer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or printed name of prospective buyer

<sup>1</sup> Also referred to as runway protection zone.